

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI**

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No. 3255/Mum/2022
(A.Y.2016-17)**

Placewell Jobs Private Limited, Shiv Krupa Plot No. E68 Sector 3, Belapada Opp Khargar Railway Station Maharashtra - 410 210	Vs.	Income Tax Officer Ward 7(3)(3) Mumbai 400 020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACB6389E		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	Abhishek Kumar Singh

Date of Hearing	08.03.2023
Date of Pronouncement	08.03.2023

आदेश / O R D E R

Per Amarjit Singh (AM):

The present appeal filed by the assessee is directed against the order passed by the NFAC, Delhi, dated 30.08.2022 for A.Y. 2016-17. The assessee has raised the following grounds before us:

“(1) Disallowance under section 36(1)(iii)

The Ld. CIT(A) of National Faceless Appeal Centre (NFAC), Delhi has erred in law and fact in enhancing the disallowance of interest Rs. 1,19,80,032 without giving proper opportunity of heard to the appellant. On the facts of the case the notice was served on the wrong email id which is never received by the receiptant. Then the order passed by the officer is bad in law and principle of natural justice. Hence the appellant prays that the order passed by the CIT(A) should be set aside and opportunity of being heard should be given to the appellant.

(2) Website charges

On the facts and circumstances of the case, the appellant stay that the Ld. Commissioner of NFAC has erred in law in confirming the

disallowance of website expenses Rs. 1,31,237. By treating the said expenditure as capital expenditure.

Without prejudice above, the Ld. Commissioner would have allowed 60% depreciation on website if the expenditure is treated as capital expenditure.

(3) Business promotion expenses

On the facts and circumstances of case, the Ld. Commissioner has erred in law in confirming the disallowance of Rs. 1,00,000 sales and business expenditure without giving proper opportunity of being heard.

Appellant craves leave to add to, alter, amend or delete all or any of the above grounds of appeal, which are independent and without prejudice to each other, on or before the date of hearing.”

2. Fact in brief is that assessee has filed return of income declaring nil income on 17.10.2016. The case was subject to scrutiny assessment and notice u/s 143(2) of the Act was issued on 11.07.2017. The assessment u/s 143(3) of the Act was finalised on 28.12.2018 and total income of the assessee was assessed at Rs.76,893/- after making disallowance of interest u/s 36(1)(iii) of Rs.13,19,125/- website charges of Rs.1,31,237/- and business promotion expenses of Rs. 1,00,000/-.

3. The assessee filed the appeal before the ld. CIT(A). However, the ld. CIT(A) has not adjudicated the ground of appeal of the assessee on merit but dismissed the appeal of the assessee for want of prosecution and enhanced the disallowance of interest expenses by Rs.1,06,60,907/-.

4. Heard the ld. D.R and perused the material on record. The ld. CIT(A) has dismissed the appeal of the assessee on the ground that assessee has not responded to the notices issued by the ld. CIT(A) during the course of appellate proceedings. In this regard, the assessee has submitted in its ground of appeal that the notice of hearing by the ld. CIT(A) were served on the wrong email id which were never received by the assessee and therefore, requested that opportunity of hearing should be given to the assessee.

Sec. 250(6) of the Income Tax contemplates that the CIT(A) would determine point in dispute and therefore record reasons of such point in support of his conclusion. Considering the fact that assessee has not received the notice served on the email we are of the view that a fair and reasonable opportunity of hearing is essentially to be extended to the assessee for deciding the appeal on merit. It is noticed that in the form no. 35 the assessee has provided email id as babudevadiya@khil.com. However, in the email id mentioned in the form no. 36 is given as tax@khil.com. The assessee is directed to verify the correctness of the email and recommunicate to the Income Tax Department within 15 days of receipt of this order. Therefore, the matter is remanded back to the Id. CIT(A) for adjudication on merit after providing adequate opportunity of hearing to the assessee. Accordingly, the appeal of the assessee is allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 08.03.2023

Sd/-

(Vikas Awasthy)
Judicial Member

Place: Mumbai

Date 08.03.2023

Rohit: PS

Sd/-

(Amarjit Singh)
Accountant Member

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.